



Kentucky Department of Financial Institutions

HB 285 and Consumer Loan Industry

Frequently Asked Questions

June 18, 2019

- Does a licensee still have the option to charge a credit investigation fee instead of, or in addition to, a “loan processing fee?”
 - No. The revised statutory language replaces “credit investigation fee” with “loan processing fee.” The statute no longer addresses or authorizes a “credit investigation fee,” therefore, such a fee may no longer be charged.
- How is the “principal” amount of a loan defined?
 - While the term “principal” is not defined in the statute, the Department interprets that the “loan processing fee” will be determined based on the original amount of the loan before the inclusion of any additional charges, fees, costs, or expenses. Therefore, charges for the payment of public filings or loan processing fees, for example, are excluded from “principal.” However, products being sold to the consumer as part of the loan transaction, such as insurance or car club memberships, are included in the calculation of “principal.”
- Can “interest” be charged on the amount of the loan processing fee?
 - The original principal amount of the loan determines the “charge” (percentage) permitted under KRS 286.4-530(1). Any additional charges, fees, costs, expenses, or other amounts allowed by statute may be added to the principal and accrued at the same rate as the original principal amount.
- Can a loan processing fee be charged to a borrower on a second loan within 90 days?
 - Yes, a licensee who makes a second, separate loan to the same borrower within 90 days of the original loan may include a separate

loan processing fee of up to, and including 5%, capped at \$150.00, per KRS 286.4-533(4).

- What is the method for refunding a loan processing fee?
 - Based on KRS 286.4-530(2) and 286.4-530(6), a refund of a loan processing fee is calculated according to the original accrual method.
- May a licensee deduct unpaid default or deferment charges from a refund of a loan processing fee?
 - Yes, KRS 286.4-530(6) provides that any default or deferment charges that are due and unpaid may be deducted from a refund.
- Can a licensee charge a loan processing fee on a second loan made within 30-days? For example, if a borrower receives loan (1) and is assessed a loan processing fee, pays the loan off 30 days from the loan date, and receives loan (2) 30 days later from the same lender, may the licensee charge a loan processing fee?
 - Yes, loan (2) would constitute a new loan and may include a separate loan processing fee.
- If a loan is renewed, i.e., “refinanced,” within 90 days of the original date, may the licensee charge a loan processing fee on the renewal?
 - No, this is precluded by KRS 286.4-533(4).
- May a licensee charge a loan processing fee on a loan to a borrower who, 30 days earlier, received a prior loan from a different office of the same licensee, regardless of whether the first loan remained open and unpaid?
 - Yes, because they are separate loans, the lender may charge an additional loan processing fee.
 - Is this per branch, or across all branches?
 - It is across all branches.
- If a borrower renews, i.e., “refinances,” a loan for an amount greater than the loan’s existing unpaid balance, may a licensee charge a loan processing fee, and, if so, how is it calculated?
 - For loans that are renewed or refinanced by the same lender, a processing fee can only be charged if the renewed or refinanced loan originated more than 90 days prior to the current loan being underwritten. If refinanced beyond that 90-day period, the loan processing fee can be assessed on the revised amount of the full renewal balance.

- How should a refund of the processing fee be calculated when a loan is paid off early?
 - \$50.00 of the loan processing fee is “earned” at origination and is not subject to refund. In the event of prepayment, the remaining portion of the loan processing fee should be refunded based on the appropriate accrual method.

This FAQ is not intended to convey legal advice and all parties are encouraged to consult with an attorney, as needed, for compliance.

The Department stands ready and willing to assist with any questions. Questions may be directed to: Marni.Gibson@Ky.gov.